

from demanding or receiving any moorage, wharfage, or toll of any kind, from the owner or holder of any ship or vessel, for laying or mooring her at, or making her fast to any part of the said wharves in the proceedings mentioned; and also from demanding or receiving any wharfage or toll of any description for any goods, wares, or property landed or placed upon or passed over any part of the wharves in the proceedings mentioned. *Decreed*, that *The Mayor and City Council of Baltimore* be and they are hereby perpetually prohibited and enjoined, &c., (in like manner.) *DECREED*, that each party pay his and their own costs, to be taxed by the Register.

From this decree both parties appealed. After which the General Assembly, reciting that a legal dispute existed as to the right to collect wharfage for the use of a portion of *Dugan's* wharf and *McElderry's* wharf, in the city of Baltimore, and that it was desirable, without prejudice to the right of any of the parties, so *claiming*, to provide for the collection of such wharfage, pending the said dispute, enacted, that on application as therein prescribed, the Chancellor should appoint a person to collect wharfage for the use of the said wharves, &c.; 1831, ch. 328. Thus, evidently, assuming the fact and the law to be, contrary to the decision of the Chancellor, that one or the other of these litigating parties must be entitled to demand and collect wharfage. Upon what constitutional principles can such a legislative enactment be sustained? The Chancellor submitted and executed this law; because, although it might not be regarded as a legislative declaration of a rule, but as a judicial interference by the legislative department with an act and a subject properly falling within the scope of the powers of the judicial department, yet, under the circumstances, it might be deemed most correct in him to leave the matter to be disposed of by the Court of Appeals. For the final decision of which tribunal see *Dugan v. The City of Baltimore*, 5 G. & J. 357.